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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,518	01/26/2001	Pierre Messier	CLW 2 0142	5871

24964 7590 09/06/2005

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EXAMINER	
CHORBAJI, MONZER R	

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/770,518	MESSIER ET AL.	
	Examiner	Art Unit	
	MONZER R. CHORBAJI	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *52,54-56,62-66,68-70,76-80,82-84 and 90-93* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *52,54-56,62-66,68-70,76-80,82-84 and 90-93* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06/25/2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This final action is in response to the amendment received on 06/24/2005

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 52, 54-56, 62-66, 68-70, 76-80, 82-84 and 90-93 are rejected under 35 U.S.C. 102(b) as being anticipated by Petri (EP 0842 605 A1).

With respect to claims 52, 66 and 80, the Petri reference discloses a method (page 3, numbered lines 20-21) for spraying a disinfectant composition (page 3, lines 22-23) in aerosol form (page 9, numbered lines 53-54) on inanimate surfaces (page 10, numbered lines 2-10) that includes the following: about 11% by volume of hydrogen peroxide (page 3, numbered lines 44-45 and converting 15% by weight using the density value for hydrogen peroxide at 20 degree Celsius to be 1.45 g/ml), about12% by volume of Geraniol as antimicrobial active of essential oil (page 3, numbered lines 47-48 and page 4, numbered line 3 and converting 10 % by weight using the density value of Geraniol to be 0.877 g/ml), about 9% by volume of polyacrylic acid as shear thinning polymeric thickener (page 4, numbered lines 10-11, page 4, numbered line 21, page 5, numbered lines 1-3 and converting 10% by weight using the density value for polyacrylic acid of 1.09 g/ml), about 3% by volume of malonic acid as an optional ingredient chelating agent (page 8, numbered lines 52-57 and converting 5% by weight

using the density value for malonic acid to be 1.619 g/ml), about 4% by volume of catechol as an optional ingredient radical scavenger (page 9, numbered lines 2, page 9, numbered line 7, page 9, numbered lines 13-15 and converting 5% by weight using the density value for catechol to be 1.3 g/ml), 13% by volume of ethanol as an optional ingredient solvent (page 9, numbered lines 26-27 and converting 10 % by weight using the density value for ethanol at 20 degree Celsius to be 0.79 g/ml, equivalent to the flash vaporization component) and about 47% by volume of water up to 100% (page 5, numbered lines 45-46). For example, density of Hydrogen peroxide at 20 degree Celsius is 1.45 g/ml. (15g) x (1/1.45 ml/g) = 10 ml. The Petri reference further teaches that upon spraying the composition onto a hard surface, no residues (page 10, numbered lines 11-13) are left (equivalent to leaving an essentially dry surface having anti-microbial agent deposited upon). The Petri reference further teaches that the compositions are packaged in spray dispensing containers (page 9, numbered lines 37-54) that inherently include spray nozzles for spraying the composition onto hard surfaces in an aerosol form.

With respect to claims 54-56, 68-70 and 82-84, the Petri reference teaches including ethanol (page 9, numbered lines 26-27) in the disinfectant composition.

With regard to claims 62, 76 and 90, the Petri reference discloses a method (page 3, numbered lines 20-21) for spraying a disinfectant composition (page 3, lines 22-23) in aerosol form (page 9, numbered lines 53-54) on inanimate surfaces (page 10, numbered lines 2-10) that includes the following: about 11% by volume of hydrogen peroxide (page 3, numbered lines 44-45 and converting 15% by weight using the

density value for hydrogen peroxide at 20 degree Celsius to be 1.45 g/ml), 13% by volume (page 9, numbered lines 26-27 and converting 10 % by weight using the density value for ethanol at 20 degree Celsius to be 0.79 g/ml) of ethanol (equivalent to the flash vaporization component), about 12% by volume of Geraniol (page 3, numbered lines 47-48 and page 4, numbered line 3 and converting 10% by weight using the density value of Geraniol to be 0.877 g/ml), about 3% by volume of malonic acid (page 8, numbered lines 52-57 and converting 5% by weight using the density value for malonic acid to be 1.619 g/ml) and about 62% by volume of water (page 11, water entry up to 100 % and converting 60% by weight using the density value of water at 20 degree Celsius to be 1 g/ml).

With respect to claims 63-65, 77-79 and 91-93, the Petri reference teaches including ethanol (page 9, numbered lines 26-27) in the disinfectant composition.

Response to Arguments

3. Applicant's arguments filed 06/24/2005 have been fully considered but they are not persuasive.

On page 8 of the Remarks section, applicant refers to the compositions of water in the table on page 11 of Petri. The examiner disagrees since the table on page 11 is only used to show that water is added up to 100% for weight percent calculations and not for reciting concentration range for water. On page 5, numbered lines 45-45, the Petri reference teaches that the composition is liquid that include water. As a result, the combination of the teachings of page 5 and the table on page 11 discloses that water is to be added up to 100% after determining all other components of the composition.

On page 9 of the Remarks section, applicant argues that, "The examples of Petri contain 1.0% to 3.0% by weight of hydrogen peroxide." The examiner disagrees since the table on page 11 of the Petri reference provides one illustrative composition, while on page 3, numbered lines 44-45, the concentration of hydrogen peroxide can be 15% by weight,11% by volume, that falls within the recited ranges in the instant claims. In addition, page 3, numbered lines 29-30 and 44-45 of the Petri reference teaches that peroxygen bleach is hydrogen peroxide and no matter what the source of peroxygen bleach is, the concentration of peroxygen bleach, i.e., hydrogen peroxide falls within the disclosed ranges on page 3, numbered lines 44-45.

On page 9 of the Remarks section, applicant argues that, "Numerous compounds are listed as suitable solvents." The examiner disagrees since on page 9 of the Petri reference a limited group of solvents is provided and an explicit teaching that ethanol is one of five compounds that are suitable to be included in the composition.

On page 9 of the Remarks section, applicant argues that, "Furthermore, Petri merely lists solvents as one of the many other optional ingredients without teaching any specific examples containing solvents." The examiner disagrees since the Petri reference explicitly discloses using solvents and also provides a motivation for including them (See page 9, numbered lines 16-17) regardless of illustrative examples provided on page 11.

On page 10 of the Remarks section, applicant argues that, "Since Petri teaches the use of ingredients such as polymeric thickeners, optional surfactants and a high percentages of water, it teaches away from flash-dry compositions." The examiner

disagrees since as shown above the concentration of water does fall within the ranges of the instant claims. With regard to optional polymeric thickeners and optional surfactants, their inclusion does not mean that the composition of the Petri reference is not a flash-dry composition. In fact, on page 10, numbered lines 11-13, the Petri reference teaches that upon spraying the composition onto a hard surface, no residues are left (equivalent to leaving an essentially dry surface having anti-microbial agent deposited upon).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

5. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN KIM can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji MRC
Patent Examiner
AU 1744
08/29/2005

JOHN KIM
SUPERVISORY PATENT EXAMINER